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**Congress of the United States
House of Representatives**

Washington, DC 20515-3809

January 31, 2012

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David McIntosh
Associate Administrator for Congressional
and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

Regarding: Ms. (b) (6)(b) (6) r

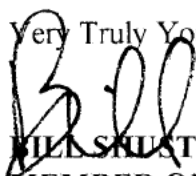
The attached communication is submitted for your consideration, and to ask that the request made therein be complied with, if possible.

Any assistance you can offer in this matter would be greatly appreciated.

If additional details are required, please do not hesitate to contact my Blair County office at (814) 696-6318.

If you will advise me of your action in this matter and return your reply to me, I will appreciate it.

Very Truly Yours,



BILL SHUSTER
MEMBER OF CONGRESS

310 Penn Street, Suite 200
Penn Street Center
Hollidaysburg, PA 16648
(814) 696-6318

WFS:mmmb
Enclosure

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SUBJECT/PROBLEM:

First Energy, due to various considerations, not in their initial study, has elected to invoke ROW along I-99 at the Yants Rd/Black Oak Ridge vortex - hoping to dismantle the woods along the west side to place poles unity substation Osterburg East of Bedford North

In accordance with Title 5, Section 552a of the United States Code, I hereby authorize

Congressman Bill Shuster to request assistance on my behalf from the EPA Chesapeake (NAME OF AGENCY) water in connection with my above-mentioned subject/problem, and authorize discussion of my records with Congressman Shuster and/or his representative for a period of one year from

the date below:

NAME:

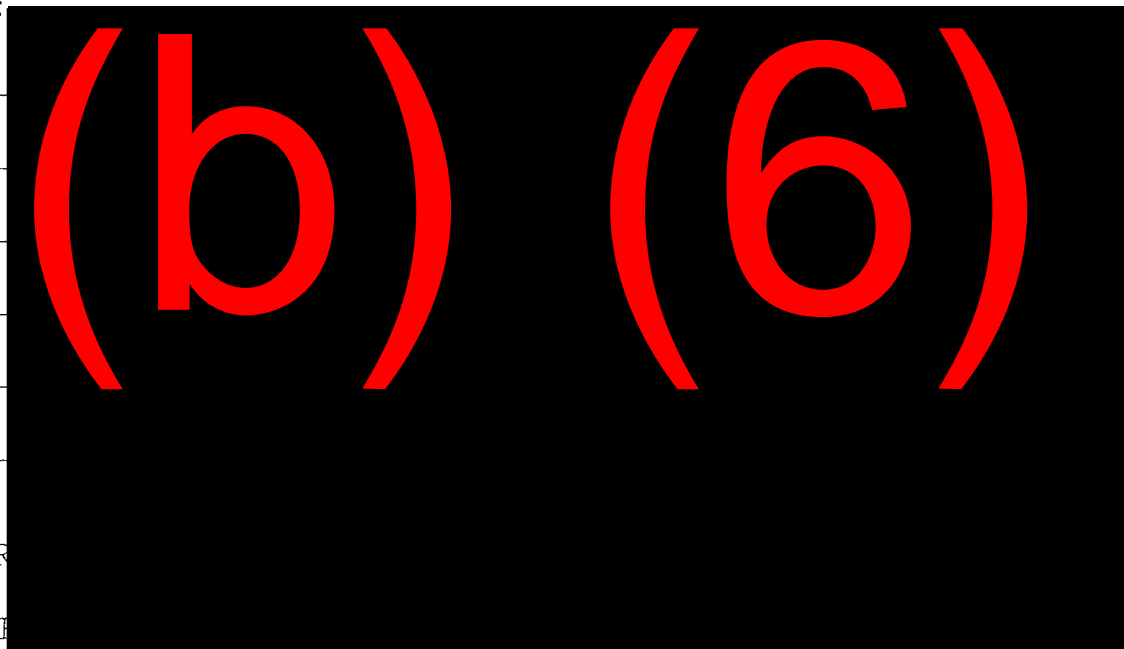
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SIGNATURE:

SOCIAL SECURITY

DATE OF BIRTH



Please complete this form and include a brief explanation of your problem, then mail to:

Congressman Bill Shuster
310 Penn Street Suite 200
Hollidaysburg, PA 16648

Phone - 814-696-6318

Toll-Free - 1-800-854-3035

Fax - 814-696-6726

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania Electric	:	
Company for Approval to Locate and	:	
Construct the Bedford North-Osterburg East	:	
115 kV HV Transmission Line Project	:	Docket No. A-2011-2247862
Situated in Bedford and East St. Clair	:	
Townships, Bedford County, Pennsylvania	:	

CERTIFICATE OF SERVICE

I hereby certify that I have, this 25th day of January, 2012, served true and correct copies of the **Response Of Pennsylvania-Electric Company To The Administrative Law Judge's Order Reopening The Record And Pennsylvania Electric Company's Motion For Leave To Submit Supplemental Testimony** upon the persons and in the manner set forth below.

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Honorable Mary D. Long
Administrative Law Judge
Pennsylvania Public Utility Commission
301 5th Avenue
Pittsburgh, PA 15222

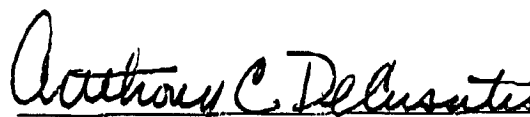
Daniel P. Delaney, Esquire
K&L Gates LLP
17 North Second Street
18th Floor
Harrisburg, PA 17101-1507

VIA FEDERAL EXPRESS

Rebecca Beegle Fair
197 Pheasant Lane
Bedford Hunting Lodge
Bedford, PA 15522

VIA CERTIFIED MAIL

Rebecca A. Fair
P.O. Box 14
Clifton, OH 45316



Anthony C. DeCusatis
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103
(215) 963-5034

DATED: January 25, 2012

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

APPLICATION OF PENNSYLVANIA	:	
ELECTRIC COMPANY FOR	:	
APPROVAL TO LOCATE AND	:	
CONSTRUCT THE BEDFORD NORTH-	:	
OSTERBURG EAST HV	:	Docket No. A-2011-2247862
TRANSMISSION LINE PROJECT	:	
SITUATED IN BEDFORD AND EAST ST.	:	
CLAIR TOWNSHIPS, BEDFORD	:	
COUNTY, PENNSYLVANIA	:	

**RESPONSE OF PENNSYLVANIA-ELECTRIC COMPANY TO THE
ADMINISTRATIVE LAW JUDGE'S ORDER REOPENING THE RECORD
AND
PENNSYLVANIA ELECTRIC COMPANY'S MOTION FOR LEAVE
TO SUBMIT SUPPLEMENTAL TESTIMONY**

Pennsylvania Electric Company ("Penelec" or the "Company") is filing this Response and Motion for Leave to Submit Supplemental Testimony pursuant to Paragraph 2 of the Administrative Law Judge's ("ALJ") Order Reopening the Record issued on January 18, 2012 ("January 18 Order").

1. As set forth in the January 18 Order (p. 3), on January 12, 2012, the ALJ received a letter from Rebecca Beegle Fair opposing the construction of the Bedford North-Osterburg East 115 kV HV Transmission Line ("Bedford-Osterburg Line"), which is the subject of the above-captioned Application filed by Penelec on June 30, 2011.

2. Ordering Paragraph No. 2 of the January 18 Order provides Penelec the opportunity to submit, on or before January 25, 2012, any objections it may have to the admission into the record of Ms. Fair's letter. Paragraph No. 3 of the January 18 Order provides

that Ms. Fair would have until February 1, 2012 to respond to Penelec's objections, if any are filed.

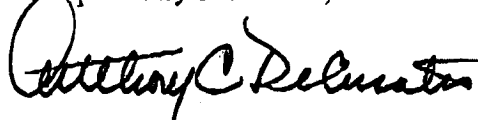
3. Penelec would not have any objection to the admission of Ms. Fair's letter provided that the Company is given an opportunity to respond with brief supplemental testimony and accompanying attachments in order to provide the necessary background and context for Ms. Fair's remarks, to explain relevant facts necessary to understand the location of the proposed Bedford-Osterburg Line relative to Ms. Fair's property, and to correct certain inaccuracies in Ms. Fair's letter.

4. As an integral part of its Response to the January 18 Order, Penelec hereby moves for leave to submit, and for the ALJ to admit into the evidentiary record, Penelec Statement No. 5-A, the supplemental testimony and attachments of David Kozy, Jr., which are annexed hereto as Appendix A. Penelec believes that Mr. Kozy's supplemental testimony and accompanying attachments are needed to properly develop the record and to properly assess the averments of Ms. Fair's letter.

5. If Penelec's Motion for leave to submit supplemental testimony and accompanying attachments is granted, Penelec would have no objection to the admission into evidence of Ms. Fair's letter and would waive cross-examination of Ms. Fair. Penelec believes that the admission of both Ms. Fair's letter and the supplemental testimony and attachments provided in Appendix A will assure that a complete and accurate record is available for the ALJ's Initial Decision and the Commission's final Order in this case.

WHEREFORE, for the foregoing reasons, Penelec moves for leave to submit, and for the ALJ to admit into the evidentiary record, Penelec Statement No. 5-A, the supplemental testimony and attachments of David Kozy, Jr., which are annexed hereto as Appendix A and, if such Motion is granted, Penelec would have no objection to the admission into evidence of Ms. Fair's letter dated January 12, 2012 to the ALJ and would waive cross-examination of Ms. Fair.

Respectfully submitted,



John J. Munsch, Esquire
PA Attorney ID No. 31489
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800 Cabin Hill Drive
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Fax: (724) 830-7737
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Anthony C. DeCusatis, Esquire
Attorney No. 25700
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1701 Market Street
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Phone: (215) 963-5234
Fax: (215) 963-5001
Email: adecusatis@morganlewis.com

Counsel for:
Pennsylvania Electric Company

January 25, 2012

APPENDIX A
PENELEC STATEMENT NO. 5-A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania Electric	:	
Company for Approval to Locate and	:	
Construct the Bedford North-Osterburg East	:	
115 kV HV Transmission Line Project	:	Docket No. A-2011-2247862
Situated in Bedford and East St. Clair	:	
Townships, Bedford County, Pennsylvania	:	

**SUPPLEMENTAL DIRECT TESTIMONY OF
DAVID KOZY, JR.**

**ON BEHALF OF
PENNSYLVANIA-ELECTRIC COMPANY**

STATEMENT NO. 5-A

**Responding to Ms. Fairs' letter to the
Administrative Law Judge concerning
the Bedford North-Osterburg East 115
kV HV Transmission Line Project**

Dated: January 25, 2012

SUPPLEMENTAL DIRECT TESTIMONY

OF

DAVID KOZY, JR.

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7 **Q. Please state your name and business address.**

8 A. My name is David Kozy, Jr., and my business address is 76 South Main Street, Akron,
9 Ohio 44308

10 **Q. By whom are you employed and in what capacity?**

11 A. I am employed by FirstEnergy Service Company, and my title is General Manager of
12 Transmission Engineering.

13 **Q. Have you previously sponsored written direct testimony in this proceeding?**

14 A. Yes. I sponsored Pennsylvania Electric Company ("Penelec") Statement No. 5 and the
15 accompanying Penelec Exhibit Nos. 6 through 12 and 18, which were admitted into the
16 record at the evidentiary hearing held on December 13, 2011.

17 **Q. What is the purpose of your testimony?**

18 A. The purpose of this testimony is to respond to a letter dated January 12, 2012 from
19 Rebecca Beegle Fair to Administrative Law Judge Mary D. Long ("ALJ") that contains
20 certain statements about the proposed Bedford North-Osterburg East 115 kV HV
21 Transmission Line ("Bedford-Osterburg Line"). By her Order issued January 18, 2012,

1 the ALJ reopened the evidentiary record to consider the admission of Ms. Fair's letter
2 after providing Penelec an opportunity to object to the letter's admission. I understand
3 that Penelec's counsel has responded to the ALJ's Order and stated that Penelec would
4 have no objection to admitting Ms. Fair's letter if Penelec has the opportunity to provide
5 a brief response. This statement is Penelec's response. Specifically, I will: (1) provide
6 some background and context to help understand the location of the centerline and right-
7 of-way of the proposed Bedford-Osterburg Line relative to Ms. Fair's property; (2)
8 explain why Penelec has been negotiating to obtain vegetation clearing rights on a
9 portion of Ms. Fair's property; and (3) clarify and correct certain statements made by Ms.
10 Fair about the possible environmental effect of the line in the vicinity of her property.

11 **Q. Have you prepared an attachment depicting Ms. Fair's property in relation to the**
12 **right-of-way of the proposed Bedford-Osterburg Line?**

13 **A.** Yes. Attachment 1 to this statement is an aerial photograph showing Ms. Fair's property,
14 which is enclosed by a solid red line. As the photograph shows, Ms. Fair's property is a
15 wooded tract with no dwellings or structures of any kind located on it. Neither Ms. Fair
16 nor anyone else lives on the property. The aerial photograph also shows the location of
17 the centerline of the proposed Bedford North-Osterburg Line as a solid yellow line,
18 which has been labeled as such on the attachment. Attachment 1 also shows Interstate
19 99/U.S. Route 220, which is located east of the proposed line.

1 **Q. Is any part of the right-of-way for the Bedford-Osterburg Line located on Ms. Fair's**
2 **property?**

3 **A. No, no part of the right-of-way for the proposed line is located on Ms. Fair's property. At**
4 **the point where the proposed line would be nearest to Ms. Fair's property (at the**
5 **northeast corner), the centerline of the proposed line will be 112 feet from her property**
6 **line, and the edge of the sixty-foot right-of-way will be approximately 82 feet from her**
7 **property line. As shown on Attachment 1, as the proposed line progresses south, the**
8 **distance between the line and Ms. Fair's property increases.**

9 **Q. Just to be clear, does Penelec need to obtain any easement or other rights over Ms.**
10 **Fair's property to construct the Bedford-Osterburg Line?**

11 **A. No, Penelec does not need to obtain any right-of-way or other rights over the Fair**
12 **property to construct the Bedford-Osterburg Line.**

13 **Q. Ms. Fair's letter refers to certain discussions that have taken place, and are**
14 **continuing, between Penelec and Ms. Fair. What is the subject of those discussions?**

15 **A. Out of an abundance of caution, Penelec is seeking to obtain from Ms. Fair the right to**
16 **clear trees and other vegetation on a portion of her property in the event that, at some**
17 **time in the future, continued growth of existing vegetation would have the potential to**
18 **interfere with the operation and maintenance of the line. As I explained before, the**
19 **rights Penelec would like to obtain are not needed for the construction of the Bedford-**
20 **Osterburg Line nor are they needed for the line's initial safe and reliable operation and**
21 **maintenance. However, vegetation clearing rights may be necessary to assure the future**

1 safe and reliable operation of the line. The trees currently on Ms. Fair's property are not
2 currently tall enough to be an issue for the safe and reliable operation of the proposed
3 line. If those trees continue to grow or if other trees sprout or are planted at or near the
4 eastern boundary line of Ms. Fair's property, that vegetation could, at some future date,
5 become an issue.

6 **Q. Does Penelec currently have any eminent domain proceedings pending with respect**
7 **to Ms. Fair's property?**

8 **A.** No, it does not. Penelec has been discussing this matter with Ms. Fair since March 2011,
9 has explained its needs and the rights it seeks to acquire, and has described the possible
10 future effect on Ms. Fair's property if those rights were granted. Penelec's
11 representatives last made contact with Ms. Fair in December 2011. The lines of
12 communication remain open and Penelec hopes to be able to reach an amicable
13 agreement to obtain the rights it may need in the future. Of course, although Penelec
14 wants to avoid pursuing eminent domain proceedings, it is always possible that it may be
15 necessary to do so. However, as I explained, the need for vegetation clearing rights lies
16 relatively far in the future, and the Company believes there is sufficient time to reach an
17 agreement with Ms. Fair.

18 **Q. At page 3 of her letter to the ALJ, Ms. Fair alleges that the "power line project**
19 **going against a crumbling cut-away cliff is ill-advised." Can you comment on that**
20 **statement?**

21 **A.** Yes. As shown on Attachment 1, Ms. Fair's property is covered with numerous trees and
22 there is no exposed cliff face on her property. The proposed Bedford-Osterburg Line will

1 be located east of Ms. Fair's property, as depicted by the yellow line showing the location
2 of the centerline on Attachment 1. The topography in the area that is depicted on
3 Attachment 1 is also shown on Attachment 2, which is a topographic map that shows
4 contour lines at twenty foot vertical intervals. Attachment 2 shows that Ms. Fair's
5 property slopes west to east towards Interstate 99/ U.S. Route 220. It appears the
6 "crumbling cut-away cliff" that Ms. Fair mentions in her letter is the highway cut for
7 Interstate 99/U.S. Route 220, which appears to be largely exposed rock. The highway cut
8 can be seen more clearly on Attachment 1 west of the red lines that mark Interstate
9 99/U.S. Route 220. We do not foresee the construction, operation or maintenance of the
10 Bedford-Osterburg Line having any significant impact on the exposed rock of the
11 highway cut because the structures to support the line will be constructed well away from
12 the cut and, as explained in Penelec Statement No. 5 (pages 8-9), Penelec will comply
13 with its Erosion and Sedimentation Control Plan to avoid any material adverse
14 environmental impact from the construction, operation and maintenance of the line.

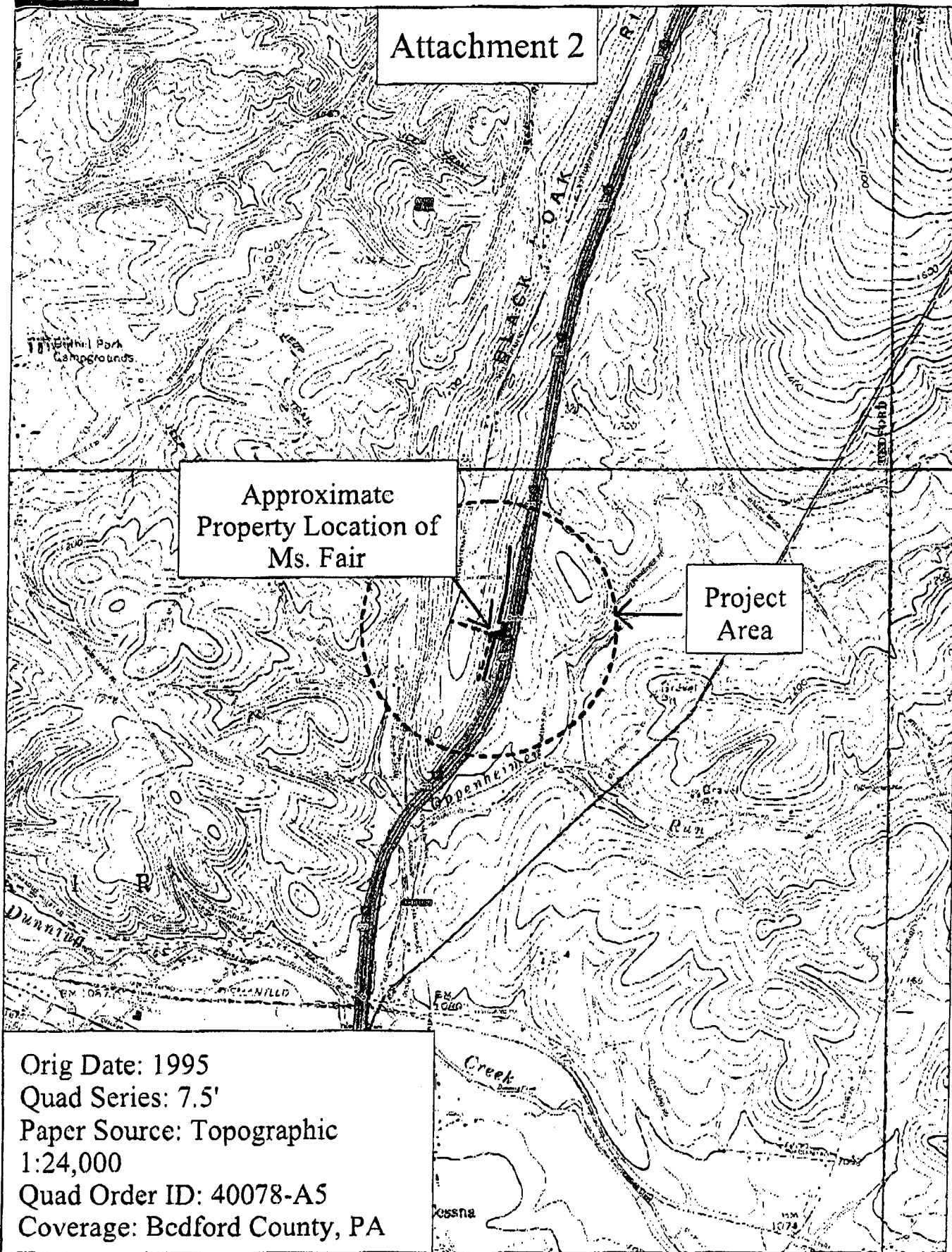
15 **Q. Does that conclude your supplemental testimony?**

16 **A. Yes, it does.**

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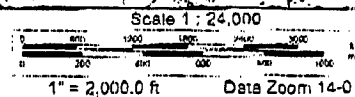
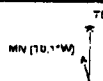
Attachment 2



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TOWNSHIP OF EAST ST. CLAIR
COUNTY OF BEDFORD
PENNSYLVANIA



1 inch = 1 ft

FAIR PROPERTY ATTACHMENT 1

Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
TEL: 215.83.5000
FAX: 215.83.5001
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www.morganlewis.com

Morgan Lewis
C O U N S E L O R S A T L A W

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Name: (b) (6)(b) (6)(b) (6)(b) (6) Firm:
FAX #: 814-623-1506 Telephone #:

FROM

Name: Anthony C. DeCusatis Floor: 15th
Operator/Sending: Telephone # 215.963.5034
FAX #: 877.432.9652 Date Sent: January 27, 2012 No of Pages: 15
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COMMENTS

As requested, attached is a complete copy of Pennsylvania Electric Company's January 25, 2012 filing response to Judge Long's January 18, 2012 Order.

Morgan, Lewis & Bockius LLP
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Philadelphia, PA 19103-2921
Tel: 215.963.5000
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Morgan Lewis
C O U N S E L O R S A T L A W

Anthony C. DeCusatis
Of Counsel
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January 25, 2012

VIA FEDERAL EXPRESS

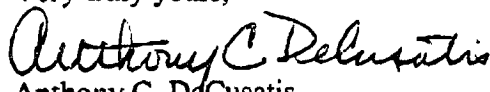
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building – 2nd Floor North
400 North Street
Harrisburg, PA 17120

**Re: Application of Pennsylvania Electric Company for Approval to Locate
 and Construct the Bedford North-Osterburg East 115 kV HV
 Transmission Line Project Situated in Bedford and East St. Clair
 Townships, Bedford County, Pennsylvania – Docket No. A-2011-2247862**

Dear Secretary Chiavetta:

Enclosed for filing in the above-captioned matter are an original and three copies of the **Response Of Pennsylvania-Electric Company To The Administrative Law Judge's Order Reopening The Record And Pennsylvania Electric Company's Motion For Leave To Submit Supplemental Testimony ("Response and Motion")**. As evidenced by the enclosed Certificate of Service, copies of the Response and Motion have been served upon the presiding Administrative Law Judge; counsel for the Intervenor, Texas Eastern Transmission, LP; and Rebecca A. Fair. We have also enclosed an additional copy of the Response and Motion, which we request that you date-stamp and return to us in the stamped, pre-addressed envelope provided for that purpose.

Very truly yours,


Anthony C. DeCusatis

Enclosures

c: Per Certificate of Service
 John L. Munsch, Esquire

Wakefoose

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Hollidaysburg Office

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NO

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